

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MOTION TO DISMISS

NOW COMES the Plaintiff Klausner Technologies, Inc. and Defendant Embarq Communications, Inc., and respectfully move the Court to dismiss this cause of action between them, and in support thereof would respectfully show the Court as follows:

All matters in controversy between Klausner Technologies, Inc. and Embarq Communications, Inc. have been settled and compromised, and these parties therefore jointly move to dismiss all causes of action asserted or which could have been asserted in this suit, with prejudice to the right to pursue any such claims in the future.

These parties further move that all costs of court be assessed against the party who incurred them.

WHEREFORE, PREMISES CONSIDERED, these parties jointly pray that this action be dismissed with prejudice between them, with all costs of court being assessed against the party who incurred them.

Dated: August 10, 2009

Respectfully submitted,

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By: /s/ Mark C. Nelson by permission ELD

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A) on this 10th day of August, 2009.

/s/ Elizabeth L. DeRieux